*Previous references.*

Ch 26 of 06
Ch 92 of 10

1910.
( Courts )

File No. 246 - 10
Serial Nos. 1 - 2

*Later references.*

ch 56 - 11 1-4
ch 56 - 11 5-9
ch 201 - 13.

# GENERAL AND REVENUE SECRETARIAT.

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*Serial Nos.* 1 - 2

**Part B. for** Judl. A.

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SUBJECT.

Inspection of Subordinate Criminal Courts by Magistrates and Sessions Judges.

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Table of Contents

1. From the Dist. Magte. Chitaldroog. no 432 dy 19.6.11
Requests (a reasons given) that Sessions Judges may be instructed to inspect magistrates' Courts in consultation with the Dist. Magistrate,
2. To the Dist. Magte. Chitaldroog. no 1239 dy 15.7.11.
States that the inspection of Magistrates' Courts by Sessions Judges is not often to objection & makes certain suggestions regarding the question —

G. R. S. 58

Recorded by
Kadaliraya
15/7/11

G.R.S. 11] 190–11

GENERAL AND REVENUE SECRETARIAT

( Courts )

NOTES.

Ctc File No. 246–10

FILE HEADING.

Inspection of Subordinate Criminal Courts by the District Magistrates and Sessions Judges

From The District Magistrate of Cuttack

No. 432 Dated 19–4–1911 Received 25–4–1911

Diary No. 2708 | Enclos. two Spare Copies | Serial No. 1

BRIEF ABSTRACT OF LETTER.

Request ~~Dates~~ that orders may be passed directing the Sessions Judges to inspect Magistrates' Courts only in Consultation with the District Magistrates in order that there may not be Concurrent inspection and in order that their subordination to the Dist Magte may not be weakened

NOTES AND ORDERS.

(1) Subd for orders

Hd Cl (122) SN (11)

26–4–11.

26/4 (2) (1) Put up the file in which the Govt order was passed

(2) (2) Put up an up to date and annotated Criminal Procedure Code

1/5/11.

NOTES—First sheet must be written on 1/5

GPB—15,000—24-4-09

Serial No. 4

Subd. Courts File N° 92-10 is put up, as also Dr Swaminathan's Criminal Procedure Code.

HCJ (12) SN 1/-2
4-5-11 515

(5) There is considerable force in the views of the District Magr of Chitaldrug that the Criminal Procedure Code does not make the Courts of the Magistrates appointed under the Code subordinate to the Sessions Court, except to a very limited Extent. This subordination seems to be ~~strictly~~ confined to matters of a strictly judicial character viz to proceedings connected with appeal revision and reference. The language of the Code (vide Sec 17(5)) seems to be clear on the point. Please see also Dr Swaminathan's annotated Edition of the Cr. Pr. Code p 38.

(6) Sec 554, no doubt, authorises the Chief Court to frame rules regarding the inspection of the records of the Subordinate Courts but it is doubtful whether this can be held to justify

NOTE—Contn. sheet.

GPB—55,000—27-4-[illegible]

Serial No.

the granting of the powers of inspection to Courts which do not enjoy such powers under the Code — Especially in face of the clear language of Sec 17 (5).

(7) If this view is considered Correct the instructions issued in the Go of 15th Feb 1911 (the last para) seem to require reconsideration

9/5/11

Sec 7 (8) The direction to Sessions Judges to inspect courts of magts may be withdrawn. The inspection of Courts is more a less an administrative act, & it is the Dt magte & the Chief Court and not the Sessions Court that have administrative control over the subordinate magts. The Sessions Judge has certain defined power in regard to the revision etc of the proceedings of magistrates, & the exercise of those powers he

NOTE—Contn. sheet.

GPB—50,000—12-8-10

Serial No.

Can control their judicial acts to a certain extent.

(9) The grant of powers of inspection seems to be unnecessary and inexpedien

2nd cr]

CSB
13/5/11

SB 13/5/11

(10) Call for the opinion of the Ch Ct as to whether any modn of the order ~~or~~ is needed or whether any rules need be ~~framed~~ under S. 554.

15/5/11

(11) Forwarded to the Registrar of the Chief Court for favour of the opinion of the Chief Court.

B.O.

Secy Judiciary

for Secy to Govt

16/5/11

(12) The file is returned with the opinion of the Judges

Asst Registrar

Regr Chief Ct

21. 6. - GPS 5000 - 12-8-10

NOTE— Contn. sheet.

G. R. S. 12 ]
General and Revenue Secretariat.

Ch File No. 246 of 1910

5

Serial No.

Opinions.

(13)

The Offg. Chief Judge :- The practice of Sessions Judges inspecting the Courts of ~~the~~ Subordinate Magistrates prevails, so far as I have been able to ascertain, in Bangal and Central Provinces. The Bengal rule on the subject is referred to at page 237 of the General Rules and Circular Orders of the Calcutta High Court, and the ~~##~~ substance of the Central Provinces Rule has been given by the Chief Judge (Mr Justice Ismay) in his note dated the 9th March 1911. The practice does not, therefore, seem to be open to any serious objection. In this view, the order of Government No.J.2321-9/Cts.92-10-3 dated the 15th February 1911 needs no modification, and it will suffice if the suggestion made by this Court in its proceedings dated the 13th/16th March 1911 is approved of and directed to be given effect to.

(Copy appended) x

(copy appended) x

(14) I do not think that the Bengal rule will work well here.

(15) 13th June 1911. (Sd) P. S. Krishna Rao

(16) Mr Justice K.S. Chandrasekhara Aiyar :- I agree. The question of ~~###~~ administrative subordination, to which the Chitaldrug District Magistrate attaches importance, does not seem to me very much in point. It is the judicial work of Magistrates as such that Sessions Judges, I presume, are expected to examine during their inspections. (Sd) K S C

16th June 1911.

NOTE— Contn. sheet.

GPB—50,000—12-8-10

Mr Just

Serial No.

(15) Mr Justice T. Paramasiva Iyer :- I consider that Sessions Judges may not inspect magisterial courts as such inspection would be inconsistent with the clearly expressed intention and policy of the legislature contained in clause 5 section 17 of the Criminal Procedure Code.

19th June 1911. (Sd) T-P.

(16) The Chief Judge Mr Justice Ismay's note dated the 9th March 1911 :- This is a matter which the Sessions Judge ought to arrange in consultation with the District Magistrates. The arrangement in force in the Central Provinces was that the Sessions Judge inspected all courts at the headquarters of districts and the District Magistrate all outlying courts. Probably some such arrangement would be found workable in Mysore.

Copy of the proceedings of the Chief Court of Mysore, dated the 13th/16th March 1911:-

(17) Read letter No.1696/340 dated 5th instant from the Sessions Judge of Shimoga requesting instructions, with reference to Government Proceedings No.J.2321-9/Cts.92-10-3 dated 15th February 1911, whether he is to inspect only the courts of 1st class Magistrates in his division over whom he exercises appellate jurisdiction or the courts of the 2nd & 3rd class Magistrates as well

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(18) This is a matter which the Sessions Judge ought to arrange in consultation with District Magistrates. It is suggested that the Sessions Judge inspect all the courts at the headquarters of Districts and the District Magistrates all outlying courts.

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NOTE— Contn. sheet.

GPB—50,000—12-8-10

G. R. S. 12 ]
General and Revenue Secretariat.

Cb File No. 246 of 1910

| Serial No. | |
|---|---|
| | Subd for orders. SW(11) 24/6/11 |
| | 26/6/11 Sd |
| | (1) 2nd C) Draft a reply accepting the opinions of the Ch. Judge & 2nd. J.ce Ch. Iyer. 26/6/11 |
| | (2) Putup draft & submit to 2nd C 27/6/11 |
| | Cb Draft Subd Regs.(122) SW(11) 3.7.11 |
| | 3/7/11 Sd |
| 42 | (3) 2nd C) Draft ~~&~~ appd. - Issue after approval by Dewan. 4/7/11 |

NOTE—Contn. sheet.

GPB—50,000—12-8-10

Serial No.

Sub A Dewan

6/7/11 SH

12379

6.7.11

With 1 bor[illegible] Petn withdrawn separately

Draft altered & approved by Dewan

HY
10/7/11

Issue

HY
10/7/11

SH

10/7/11 11/7/11.

BR 6
7/11

2 To The District Magistrate, Chilaw, Your J 239 & 15-7-11
States that the practice of allowing Revisionary Judges
to inspect the Courts of Magistrates is not open to
any objection and may be given effect to without
difficulty if the Suggestion made by the Chief Court
in their Report of 13/16th March 1911 is adopted

NOTE—Contn. sheet.

GPB—50,000—12-8-10

III
294 Encl

190

From The District Magistrate Chittagong

To The Secretary to the Govt of Bengal Bengal

Dated 19 24 April 1911

Despatched

Received

General No. 432

No.

Enclosure No. 2.

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Re suspension of Courts by the Dt Magte & the Sessions Judge Chittagong

GP1—75 reams—25-5-10

No 43 Cr
Jr 2

District Magistrates office
Chitaldrug

Dated 19th April 1911.

From K. Chandy Esquire B.A.
Deputy Commissioner & District Magistrate
Chitaldrug

To C. S. Balasundaram Iyer Esquire B.A.
Officiating Secretary to the government
General and Revenue department
in mysore
Bangalore

Sir, Adverting to government Proceedings no J 2321-9 Hag PR
Cts. 92-10-3
dated 15-2-11. I have the honor to report as follows:

The courts of the 1st, 2nd and 3rd class magistrates in the district being subordinate to the district magistrate under section 17 (1) Cr. P.C, all these courts were till now being inspected by the district magistrates only.

2. But in the last para of the above in proceedings, government remark that these courts should be inspected by the district magistrate or Sessions judge at least once a year although the subordination of these courts to the sessions judge is evidently a limited one, as is clear from section 17 (5) Cr. P. C

3. No doubt under section 534 Cr. P.C the Chief Court, with the previous sanction of the government, can frame rules for the inspection of the subordinate courts, but no such rules have been framed in this instance, and it is not apparent that the above order was passed under that section

4 The Sessions judge of the Shimoga division made a reference to the Chief Court in the matter and a copy of the reply of the Chief Court is enclosed, from which it will be seen that the Chief Court consider that Sessions judges should inspect magistrates' Courts only in consultation with the district magistrates

5 In these circumstances I request that orders may kindly be passed directing sessions judges to inspect magisterial Courts only in Consultation with the District magistrates, in order that there may not be Concurrent inspection covering the same period both by the district magistrate and the sessions Judge and in order that the Subordination of all the magisterial courts to the district magistrate, that is contemplated in the Code, may not be weakened.

6. In this connection, reference may also be made to your letter no J 1232 - 9 dt 15th Octr. 1910. in which the District magistrate was directed to inspect the courts of the Assistant Commissioner magistrate. Under these orders, I have inspected all these courts upto the end of December 1910. and submitted reports very recently; but the sessions judge is also proposing to inspect one of these courts (vide copy of his Letter to the 1st Class magistrate Chitaldrug Sub-Division forwarded through me

7 While I have no objection
the courts being inspected by the sessions
Judge also, it appears to me that two inspections
close to each other are superfluous if it is definitely
ordered that sessions Judges need inspect magistrates
courts only after consulting district magistrates,
there will no longer be concurrent inspections.
district magistrates should ordinarly be able
to inspect all subordinate courts once in a year
and in such cases concurrent inspection by
session judges are not necessary and may
conceivably lead to needless correspondence
it will not, in my opinion, be quite proper to direct
either that sessions Judges should inspect 1st
class courts and district magistrates 2nd and
3rd class courts, or that sessions Judges should
inspect 1st, 2nd and 3rd class courts at district
head-quarters and district magistrates other
courts. the former will weaken the subordination
of 1st class courts to the district magistrate
which is contemplated by the code, as regard the
latter it does not seem advisable to burden sessions
Judges with the duty of inspecting Amiddars' courts
at district head-quarters and this moreover is a work
that can easily be performed by the district magistrate
himself

[signature]
for District Magistrate
Chitaldrug District
11/4/11

Docket no 4 dated 3rd/4 April 1911 from 4
Sessions Judge Shimoga Division to the assista
Commissioner and 1st Class Magistrate
Chitaldrug Sub-Division through the District
Magistrate Chitaldrug.

Has the honor to intimate that
the undersigned intends inspecting the
Court of the Assistant Commissioner and 1st
Class magistrate, Chitaldrug division on the
9th instant and to request that, in the
meantime, Registers of the Court may be
Kindly ordered to be placed at the disposal
of the Head-munshie Ananthanarayana
Iyengar of this court, who has been deputed
to check the same.

Copy

for Deputy Commissioner
& Dist Mgte Chitaldrug District

1154
141

Proceedings of the Chief Court of Mysore

Bangalore dated 13th/16 march 1911

Read letter No: 1696/340 dated 5th. instant from the sessions judge of Shimoga requesting instructions, with reference to Government Proceedings No J2321-8/C+S 92-10-3 dated 15th. February 1911, whether he is to inspect only the Courts of first Class magistrates in his division over whom he exercises appellate jurisdiction or the courts of the 2nd and 3rd. class magistrates as well.

This is a matter which the sessions judge ought to arrange in Consultation with district magistrates, it is suggested that the sessions judge inspect all the courts at the Head quarters of districts and the district magistrates all outlaying courts.

(Sd) V.N. Raghavathamadadiya
Registrar

No. 1902-4/730. Copy forwarded to the district magistrate of Chitaldrug for information

(Sd) Ziauddin Hussain
Sessions Judge
Shimoga Division

Copy.

for Deputy Commissioner
Chitaldrug district

2 9 Cws at 6

G.R.S. 26]

2206/47

*Diary No. of letter replied to*

Cs File No. 246-a

Serial No. 2.

No. J 229

General and Revenue Secretariat

( Cs )

, *the* 19 .

To

The District Magte

of Chitaldrug

Date of issue 15-7-11

Signed by Mr S. Hiriyannaya

Sir,

I am directed to acknowledge the receipt of your letter N 432 dated 19th April 1911 regarding the inspection of Magisterial Courts by the Sessions Judges.

(2) In reply I am to state that the practice of allowing Sessions Judges

*over.*

SUBJECT.

Jagan 18/7 reply

to suspect the Court
of Magistrates is not open
to any serious objection
and may be given effect
to without difficulty if
the suggestion made
by the Chief Secretary in their
Proc. dated 13/16th March 1911
is adopted. The question
of administrative
subordination to which
importance is attached in the opinion of Govt the
is not ~~in the opinion~~
~~of Govt very much~~ in
point. It is the judicial
work of Magistrates as
such that Sessions
Judges are expected to
examine ~~during their~~ + may in my opinion of Mr Vanderbyl in the matter
~~inspection~~

List of enclosures,

Thavese

Sd

For Secy
-J240 9/15/7/11

Copied by

Examined by 10/July 11

SW(11)

GPB—20,000—25-9-10

Sd
For Secy

DFG
Secy 12
3.7.11